

APPLICATION FOR RELIEF UNDER SECTION 722
OF THE INTERNAL REVENUE CODE

(To be executed and filed in duplicate)

Yost Auto Company

Edmonds, Washington

(Name of corporation)

(Address of corporation)

hereby makes application for relief under section 722 of the Internal Revenue Code with respect to its excess profits tax taxable year indicated below, and in support of such application submits the following information:

1. Date of incorporation Jan. 21, 1914
2. State or country Washington
3. Excess profits tax taxable year for which the benefits of section 722 are claimed 1943
4. Collection district in which the excess profits tax return for the year was filed Washington
5. Date filed Mar. 15, 1944; period of extension, if any, granted for filing return None
6. Excess profits tax shown upon the excess profits tax return for the year \$ 554.87
(Computed prior to the deferment under section 710 (a) (5), to the foreign tax credit under section 729, to the credit for debt retirement under section 783, and to the adjustment under section 734.)
7. Excess profits tax computed after application of section 722 \$ None
(Computed prior to the deferment, to the credits and to the adjustment as provided in line 6.)
8. Reduction in tax under section 722 (line 6 minus line 7) \$ 554.87
9. Adjusted excess profits net income computed without regard to section 722 No deferment
10. Normal-tax net income computed without the credit provided in section 26 (e) for income subject to excess profits tax \$
11. Percentage which line 9 is of line 10 %
12. If line 11 exceeds 50 percent, amount of tax deferred under section 710 (a) (5) (33 percent of line 8) (enter as item 17, page 1, Form 1121) \$
13. Total net relief claimed with respect to tax shown on return (line 8 minus line 12) \$
14. Total excess profits tax for the taxable year paid at or prior to time this application is filed \$
15. Amount of refund or credit for which this application is a claim (see Instruction III) Not \$ 4,099.38

IF APPLICATION FILED AS A RESULT OF DEFICIENCY

16. Excess profits tax shown in preliminary notice or notice of deficiency \$
17. Excess profits tax after application of section 722 \$
18. Reduction in tax under section 722 (line 16 minus line 17) \$

¹ If any adjustments have been made subsequent to the filing of the return, enter the adjusted amount.

² Amount of reduction of tax may not exceed deficiency finally determined without reference to section 722.

16-32832-1

Schedules A and B attached to claim for relief under
Section 722, previously filed by taxpayer, for the
taxable year 1941.

Schedule attached showing computation of tax.

COPY

SCHEDULE A—CONSTRUCTIVE BASE PERIOD NET INCOME

1. Has an application for a constructive average base period net income been made for a prior taxable year? _____

If so, state year or years _____

2. Has a constructive average base period net income been finally determined and used in connection with a prior taxable year? _____

3. If answer to line 2 is "yes," state:

(a) Amount determined for use in computing excess profits tax for prior year _____ \$ _____

(b) Year for which constructive average base period net income used in computing excess profits tax _____

(c) Date of determination of constructive average base period net income _____

(d) By whom determination was made _____

(e) Reason for claim for constructive average base period net income for use in the taxable year other than the amount set forth in (a) (attach statement).

(f) In the case of an affiliated group filing consolidated excess profits tax returns, have any new members been acquired by the group, or have any former members departed from the group after the date upon which

such constructive average base period net income was determined? _____ If answer is "yes," attach particulars.

Year Amount

4. Excess profits net income or deficit in excess profits net income for each taxable year in the base period, computed without regard to section 722. _____ \$ _____

_____ \$ _____

_____ \$ _____

_____ \$ _____

Total _____ \$ _____

5. Average base period net income determined without regard to section 722 _____ \$ _____

(a) Is the benefit of section 713 (e) (1) (relating to exclusion of deficit or to increase in lowest year in base period) claimed? _____

(b) Is the benefit of section 713 (f) (relating to increased earnings in last half of base period) claimed? _____

(c) If answer to (a) or (b) is "yes," furnish computation.

6. Amount of constructive average base period net income claimed for use in computing excess profits tax for taxable year. (Furnish particulars supporting amount claimed and details involved in computation.) _____ \$ _____

7. Has Supplement A been availed of in determining average base period net income? _____ Has a separate constructive average

base period net income been finally determined for any component prior to the time this application is made? _____ Attach schedule showing former names, addresses, and all pertinent information for each component corporation for each year of existence necessary to determination of application of section 722.

8. (a) If business was commenced during base period or after December 31, 1939, is business a continuation in whole or in part of a previously existing business? _____

(b) If answer to (a) is "yes," furnish particulars.

9. (a) Is the taxpayer a member of an affiliated group making a consolidated excess profits tax return? _____

(b) If the answer to (a) is "yes," is the affiliated group filing a consolidated excess profits tax return making application for relief under

section 722? _____

(c) If answer to (a) and (b) is "yes," state:

(1) First taxable year for which a consolidated excess profits tax return was made _____

(2) Whether a constructive average base-period net income has been finally determined for any member of the group _____

(3) Names and addresses of each member of the group, and furnish all pertinent information necessary to determine constructive average base period net income of such group.

10. If the taxpayer came into existence after December 31, 1939, state date after which capital additions and capital reductions were not taken into account in computing constructive average base period net income _____

11. If the benefits of section 711 (a) (1) (I) or 711 (a) (2) (K) (relating to nontaxable income of certain industries with depletable resources) are claimed, attach schedule showing the computation of, and state the fair and just amount of:

(a) Normal output during the base period as defined in section 735 (a) (5) _____

(b) Normal unit profit as defined in section 735 (a) (9), \$ _____ per _____

YOST AUTO COMPANY

Edmonds, Wash.

Computation of Excess Profits Tax for the year 1943:

Excess Profits Credits:

Constructive average base period net income; see schedule A item 6, claim for the year 1941							<u>\$19,214.44</u>
95% of \$19,214.44							\$18,253.72
Specific exemption							5,000.00
Excess profits credit carry-over:							
Year 1941; 95% of \$19,214.44						\$18,253.72	
Year 1942; 95% of \$19,214.44						<u>18,253.72</u>	
						\$36,507.44	
Less excess profits net income:							
Year 1941					\$18,422.44		
Year 1942					<u>17,362.08</u>		
					\$35,784.52		
Less unused carry-over from year 1940;					\$18,253.72		
minus excess profits net income, year 1940	<u>11,328.15</u>	<u>6,925.57</u>	<u>28,858.95</u>				<u>7,648.49</u>
Total excess profits credit							<u>\$30,902.21</u>
Excess profits net income for year 1943 (Line 16, Schedule A, form 1121)							\$19,124.33
Less excess profits credit							<u>30,902.21</u>
Adjusted excess profits net income for year 1943							\$ None
Excess profits tax for year 1943 assessed and paid						\$ 4,554.87	
Less net post-war refund credit received Apr. 13, 1946						<u>455.49</u>	
						\$ 4,099.38	
Correct tax liability						<u>None</u>	
Net overpayment to be refunded						\$ 4,099.38	

SCHEDULE B—TAXPAYERS ENTITLED TO THE EXCESS PROFITS CREDIT BASED ON INCOME

If the excess profits tax is claimed to be excessive and discriminatory in the case of a taxpayer entitled to use the excess profits credit based on income pursuant to section 713 (or Supplement A, if the taxpayer computes its average base period net income pursuant to Supplement A), check one or more of the following reasons and supply the general information called for in the instructions as well as that indicated below:

1. Normal production, output, or operation was interrupted during the base period because of unusual and peculiar events (section 722 (b) (1)).
 - (a) Describe the events and time of occurrence.
 - (b) State taxable years in the base period during which production, output, or operations were affected.
2. The business of the taxpayer was depressed during the base period or the taxpayer was a member of an industry which was depressed during the base period because of temporary and unusual economic events (section 722 (b) (2)).
 - (a) Describe the temporary economic events unusual in the case of the taxpayer or an industry of which it was a member.
 - (b) If claim of depression is based on membership in depressed industry, describe industry, and furnish names and addresses of other members of such industry.
3. The business of the taxpayer was depressed in the base period because of membership in an industry affected by conditions subjecting the taxpayer to:

A profits cycle differing materially from the general business cycle (section 722 (b) (3) (A)), or

Sporadic and intermittent periods of profits inadequately represented in the base period (section 722 (b) (3) (B)).

- (a) Describe character of the industry and furnish names and addresses of other members of the industry.
 - (b) Furnish data establishing that the taxpayer was depressed by reason of an unusual profits cycle, or
 - (c) Furnish data establishing that the taxpayer was depressed by reason of realization of sporadic profits inadequately represented in the base period.
4. The business of the taxpayer was commenced or there was a change in the character of the business immediately prior to or during the base period (section 722 (b) (4)).
 - (a) On what date did commencement of business or change in character of business occur? _____
 - (b) If change in character of the business has occurred, submit statement of:
 - (1) Nature of change in character of business.
 - (2) Portion of the definition in section 722 (b) (4) within which such change is claimed to have occurred.
 - (3) Evidence supporting contention that average base period net income does not reflect normal operations for the entire base period.
 - (c) Did the business reach, by the end of the base period, the earning level it would have reached if the business had been commenced, or if the change in the character of the business had occurred, 2 years prior to the time the commencement or change occurred? _____ If answer is "no," furnish particulars.
 - (d) Was change in capacity for production or operation of business consummated during a taxable year ending after December 31, 1939, as a result of a course of action to which taxpayer was committed prior to January 1, 1940? _____
 - (e) If answer to (d) is "yes":
 - (1) State date upon which such change was consummated and extent to which income for such year reflects such change.
 - (2) Submit evidence of commitment to a course of action prior to January 1, 1940.
 - (3) Attach schedule showing net capital addition or net capital reduction (section 713 (g) (1) or (2)) and the amount of money or property expended after the beginning of the first excess profits tax taxable year under the Internal Revenue Code in changing the capacity for production or operation of the business.
 5. Other factors producing an average base period net income which is an inadequate standard of normal earnings and which are not inconsistent with the principles and limitations of section 722 (b) (section 722 (b) (5)).
 - (a) Describe other factors claimed to affect business during the base period and to result in an average base period net income which is an inadequate standard of normal earnings.

SCHEDULE C—TAXPAYERS NOT ENTITLED TO THE EXCESS PROFITS CREDIT BASED ON INCOME

If the excess profits tax is claimed to be excessive and discriminatory in the case of a taxpayer not entitled to use the excess profits credit based on income pursuant to section 713 (or Supplement A), check one or more of the following reasons and supply the general information called for in the instructions as well as that indicated below:

1. The business of the taxpayer is of a class in which intangible assets not includible in invested capital under section 718 make important contributions to income (section 722 (c) (1)).
 - (a) Describe character of intangible assets.
 - (b) State names and addresses of other corporations believed to be in the same class of business where intangible assets of a similar character make important contributions to income.
2. The business of the taxpayer is of a class in which capital is not an important income-producing factor (section 722 (c) (2)).
 - (a) Describe nature of the business and explain why capital is not an important income-producing factor.
 - (b) State names and addresses of other corporations believed to be in the same class of business in which capital is not an important income-producing factor.
3. The invested capital of the taxpayer is abnormally low (section 722 (c) (3)).
 - (a) Describe circumstances causing invested capital to be abnormally low.

AFFIDAVIT

We, the undersigned officers of the corporation for which this application is made, being duly sworn, each for himself deposes and says that the statements made herein (including any accompanying schedules and statements) are, to the best of his knowledge and belief, true, correct, and complete statements of facts made in good faith pursuant to the requirements of section 722 of the Internal Revenue Code and the regulations issued thereunder.

[CORPORATE SEAL]

(Name)

President

(Title)

(Name)

Secretary

(Title)

Subscribed and sworn to before me this _____ day of March, 1947

(Signature of officer administering oath)

Notary Public

(Title)

INSTRUCTIONS

GENERAL INSTRUCTIONS

I. Form 991 (revised January 1943) is to be used by a corporation for each excess profits tax taxable year for which it claims the benefits of section 722 of the Internal Revenue Code, as amended by section 222 (a) of the Revenue Act of 1942, relating to the computation of constructive average base period net income.

II. This form should be executed in duplicate and filed, within 6 months after the time provided for filing the excess profits tax return, or if the application relates to a taxable year beginning after December 31, 1939, but not beginning after December 31, 1941, on or before April 21, 1943, with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Clearing Division, Claims Control Section. If line 12, page 1, is filled in as an amount of tax claimed to be deferred under section 710 (a) (5) for a taxable year beginning after December 31, 1941, this form, containing detailed information establishing the claim for relief, must be executed in duplicate and attached to Form 1121 filed for such year with the Collector of Internal Revenue. As to time for filing after notice of proposed assessment of a deficiency and as to waivers with respect to limitations for subsequent taxable years, see section 722 (d) of the Internal Revenue Code.

III. This application constitutes a claim for refund or credit to the extent that the amount of excess profits tax for the taxable year paid at or prior to the time this application is filed exceeds the total amount of excess profits tax which would be payable for such year if the benefits of section 722 were available in the computation of the tax on the return. If there is no such excess, or if the amount of refund or credit claimed is greater than the amount for which this application is a claim, Form 843 should be filed for the amount for which this application is not a claim.

IV. All the information called for by this form shall be supplied in detail. Use additional sheets. If Form 991 has previously been filed with respect to a taxable year beginning before January 1, 1942, the data and information submitted with such form need not be duplicated in filing Form 991 (revised January 1943) for such year. In such event, and if no additional grounds for relief are relied upon, only lines 1 through 18 on page 1 and the affidavit on page 4 need be executed.

V. The application shall be verified under oath or affirmation and shall be signed by at least two officers empowered to sign for the corporation, in addition to which the corporate seal must be affixed. If the corporation has no seal, the application must be accompanied by a certified copy of the resolutions passed by the board of directors, giving such officers authority to sign the application.

SPECIFIC INSTRUCTIONS

(Numbered to correspond to the lines of the schedule involved)

SCHEDULE A

3 (e). The amount of the constructive average base period for use in an excess profits tax taxable year may be different from the amount used in a prior excess profits tax taxable year if subsequent to such prior year (1) the taxpayer acquires a component as defined in Supplement A, (2) the taxpayer is an affiliated group making its first consolidated excess profits tax return in the taxable year, (3) the membership of an affiliated group which made a consolidated excess profits tax return in such prior year is different in the taxable year, (4) the taxpayer has been deemed to have commenced business or to have changed the character of its business 2 years prior to the actual event and the taxpayer as of the close of the base period could not reasonably expect to realize its full earning capacity in the prior excess profits tax taxable year, (5) the taxpayer has effected a change in capacity for production or operation after December 31, 1939, as a result of a course of action to which it was committed prior to January 1, 1940, and the full effect of such change was not reflected in the operations of the business in the prior excess profits tax taxable year, and (6) the taxpayer commenced business after December 31, 1939, and the business had not reached its full earning capacity in the prior excess profits tax taxable year.

3 (f). State names and addresses of corporations which have become members of the group or which have ceased to remain members of the group after the date upon which the constructive average base period net income was determined.

6. If the relief claimed requires an adjustment to the excess profits net income for any year in the base period, attach a profit and loss statement and supporting schedules reconstructed in detail for each year so adjusted. If the constructive average base period net income is constructed to reflect the principles of section 713 (e) (1) prior to amendment by the Revenue Act of 1942 (relating to exclusion of deficit), section 713 (e) (1) (relating to increase in lowest year in the base period), or of section 713 (f) (relating to increased earnings in last half of base period), explain reasons for the application of such principles and the method of computation. If a taxable period other than the base period is used in the computations, submit detailed computations and analysis of period of not less than 3 years which is claimed to represent a period of average normal earnings with respect to the taxpayer. Such period should bear the same relationship to the experience of the taxpayer or the experience

of an industry of which it is a member as the base period bears to business in general. If the normal earnings for the base period are determined without reference to specific years in such period, submit detailed statement of normal conditions upon which is based the determination of average normal earnings to be used as the constructive average base period net income.

If the taxpayer is deemed to have commenced business or to have changed the character of its business 2 years prior to the actual event the fair and just amount representing normal earnings to be used as the taxpayer's constructive average base period net income for the first or second excess profits tax taxable year, as the case may be, shall be determined to be an amount which bears the same relationship to normal earnings representing full normal earning capacity which the earning capacity the taxpayer, as of the end of the base period, could reasonably expect to reach in the first or second excess profits tax taxable year, as the case may be, bears to its full earning capacity.

If the taxpayer has effected a change in capacity for production or operation after December 31, 1939, as a result of a course of action to which it was committed prior to January 1, 1940, the fair and just amount of normal earnings included in the constructive average base period net income attributable to such change to be used in the computation of the excess profits tax for a taxable year shall be determined with respect to the extent to which the change in capacity for production or operation is reflected in the business of the taxpayer for such taxable year. Such amount shall be computed so as not to duplicate the amount of any capital additions which have been used in constructing or acquiring the facilities giving rise to the change.

If a taxpayer has come into existence after December 31, 1939, the amount of fair and just normal earnings to be used as the constructive average base period net income in the computation of the excess profits tax for a taxable year shall bear the same relationship to normal earnings representing full earning capacity of the taxpayer which the earning capacity realized by the taxpayer in such taxable year bears to its full earning capacity.

7. Pertinent information should include years for which the income of the component would be used in computing average base period net income under Supplement A, description of business of component prior to its acquisition, method of acquisition of component's assets, and amount and description of assets of component acquired. If the taxpayer computes its average base period net income under Supplement A, the taxpayer shall, for the period for which the income of a component is included in the average base period net income of the taxpayer, treat the business of such component as if it were a part of the business of the taxpayer.

8. Describe character of the predecessor business, the former name and address of such business, the extent of the assets taken over and that portion of the business continued, and comparative profits and loss statements and balance sheet of such former business if its experience is used in the computation of the constructive average base period net income.

9 (b). If an affiliated group makes a consolidated excess profits tax return, an application for relief must be filed for the group as a unit and cannot be filed separately for one or more members of such group.

9 (c) (3). Furnish the information required in Instruction 6 but with respect to the entire group.

10. The date so stated is considered to be the date of the beginning of the taxpayer's first excess profits tax taxable year for the purpose of the computation of the credit under section 713 (a) (1) (B) or (C) for net capital addition or reduction.

SCHEDULE B

All taxpayers executing Schedule B should file, in addition to the information requested in such schedule, a statement containing the following:

(a) A brief account of the history of the enterprise and a detailed description of the character of the business carried on. The applicant should clearly indicate the nature of the products and services sold as well as any other sources of income.

(b) Financial information which will support the taxpayer's contention that the use of the excess profits credit based on income, as provided in section 713 or Supplement A, would result in an excessive and discriminatory tax under subchapter E of chapter 2. The applicant should submit profit and loss statements and comparative balance sheets for each base period year and for as long a period prior to the beginning of the base period as is necessary to demonstrate its normal earning capacity. Where such information would be relevant to a determination of normal profits, the applicant should compute the percentage rate of return on invested capital for such years and should also show the profits per dollar of sales for these years.

1. Attach a schedule showing computation of amounts claimed to represent normal production, output, or operation for the base period years affected. If for any year in the base period, income was abnormally large, state such year and describe the surrounding circumstances.

2. If business depression is claimed to have existed with respect to not more than 2 years in the base period, submit schedule showing computation of business claimed to be normal for such years. If business depression is claimed to have existed with respect to more than 2 years in the base period, submit detailed statement of normal conditions upon which is based the determination of average normal earnings to be used as the constructive average base period net income.

3. Describe the period, if any, during which average profits are claimed to represent average normal earnings and furnish reasons and particulars supporting such claim.

4. If the base period is claimed not to represent the full effect of normal operations, submit a detailed statement establishing the amount of normal earnings which would have been realized had the conditions claimed to be normal prevailed throughout the base period.

4 (d). If substantially all the assets of a competitor engaged in the dissemination of information through the public press were acquired after December 31, 1939, but before May 31, 1941, resulting in the elimination of competition existing before January 1, 1940, between the taxpayer and such competitor, submit a statement showing the date of acquisition, the assets acquired, the assets remaining in competitor, the facts evidencing competition prior to January 1, 1940, the facts evidencing cessation of such competition, and the extent to which income for the taxable year reflects such acquisition.

SCHEDULE C

All taxpayers executing Schedule C should file, in addition to the information requested in such schedule, the following:

(a) A brief account of the history of the enterprise and a detailed discussion of the character of the business. The applicant should not only clearly indicate the nature of the products and services sold and any other sources of income but should provide the names and locations of other similar businesses which the taxpayer believes to be engaged in the production of the same or similar products and services in the years beginning after December 31, 1935, and before January 1, 1940, and the average base period net income of which is believed to reflect normal earnings.

(b) In the case of applicants which are successors to an enterprise which was carried on during all or a part of the base period, a statement of the sales and profits of the predecessor company. In case the taxpayer does not believe that the earnings of the predecessor company during the base period provide a reasonable basis for the determination of its own constructive average base period net income, the taxpayer should state the reasons why it does not consider that the profits of such firm for such period would be a reasonable standard for his own normal profits.

(c) A statement of the reasons upon which the taxpayer bases the claim for normal profits.

3. Submit a schedule of the amount, and furnish details of the computation, of the amount of invested capital claimed to be normal.